

DRAFT FOR CONSULTATION PURPOSES

Joint Recommendation of the North Western Waters High-Level Group

Discard Plan for pelagic Fisheries in the North Western Waters

Updated version for 2018

1. Implementing authority

- a.* In accordance with Article 43(2) and Article 290 of the Treaty on the Functioning of the European Union, the European Commission has been empowered on basis of Articles 15(6) and 18(1) of Regulation (EU) No. 1380/2013 to adopt discard plans by means of delegated acts. In accordance with Article 18(1) of Regulation (EU) No 1380/2013, the Member States of the North Western Waters hereby submit a joint recommendation, to the European Commission for a specific discard plan for pelagic fisheries in the North Western Waters. The objective is that the Commission, on basis of the underlying Joint Recommendation adopts a delegated act replacing Regulation (EU) No 1393/2014 that applies until 31 December 2017.

2. Objectives of the discard plan

- a.* As a result of the reform of the Common Fisheries Policy (Regulation (EU) No 1380/2013), adopted in 2013 and entered into force from 1st January 2014 on, there is now a provision under Article 18 that allows Member States to elaborate joint recommendations for regional management measures specific to their fisheries, applying to a relevant geographic area, and submit these to the European Commission for adoption via delegated acts.
- b.* The scope of these measures is laid down in Article 18(1) of Regulation (EU) No 1380/2013 by way of reference i.a. to Article 15(6) thereof. Art 15(6) outlines the process for adoption of a specific discard plan by the European Commission for a period of no more than three years. The discard plan has to contain any of the specifications referred to in points (a) to (e) of Article 15(5). A first discard plan for a period of three years (1 January 2015 to 31 December 2017) was adopted on 20 October 2014. As it is not likely that a multiannual plan for pelagic fisheries in the North Western Waters will be adopted in a short time

and certainly not in time in order to enter into force on 1 January 2018, it is proposed, to adopt a second discard plan with a duration of three year in order to fill the gap between the end of validity of Regulation (EU) No 1393/2014 and the enter into force of a multiannual plan to be adopted by colegislators in line with article 10 and 11 of Regulation (EU) No 1380/2013. When a multiannual plan is adopted before the end of the three year period of validity of the three year period, the discard plan should be withdrawn when the multiannual plan enters into force.

- c.* Under Article 15(6) of Regulation (EU) No 1380/2013, Member States may cooperate, in accordance with Article 18 thereof, in the drawing up of a specific discard plan with a view to the Commission adopting such a plan by means of a delegated act or via the Ordinary Legislative Procedure.
- d.* The adoption of such specific discard plans is considered to be important to achieve a successful implementation of the landing obligation as specified in the reformed Common Fisheries Policy.
- e.* As such, this discard plan will establish provisions to implement any of the provisions laid down in points (a) to (e) of Article 15(5) of Regulation (EU) No 1380/2013, including specific descriptions of any exemptions obtained.
- f.* It is intended that the Commission delegated act giving effect to this discard plan shall remain open to revision and adaptation at any time during its duration of three years (2018-2019-2020) in order to guaranty flexibility in addressing the challenges that will be posed during this period. In particular, this discard plan shall remain open to the inclusion of exemptions under high survival and de minimis later, and to the inclusion of specific provisions for Minimum Conservation Reference Size (MCRS) to be specified at any time. It is considered to be the joint responsibility of the Commission and Member States to maintain oversight of the implementation of the provisions of this discard plan and to review and amend any element that evidence and/or improved data shows is not fit for purpose.
- g.* In association with this discard plan, there may be a need for complementary changes in technical measures in order to increase selectivity and reduce as far as possible unwanted catches. Control measures may also need to be changed. In both cases, it is to be ensured there is no conflict between the technical and control measures and the proper implementation of the landing obligation and both need to be specified in revisions of the Technical Conservation Regulation and the Control Regulation. Any such measures may be brought forward in a separate recommendation as early as possible.

- h.* It is desirable that any technical, control or compliance measures adopted for the North West Waters region be efficient, proportional, and enforceable across all vessels operating under this discard plan.
- i.* It is the position of Member States that increased selectivity, where possible, is the most desirable way to deliver compliance with the landings obligation.
- j.* In order to cater for a solution for unwanted catches that are unavoidable even when all the measures for their reduction are applied, i.a. by applying selectivity measures, certain de minimis exemptions from the landing obligation should be established for the fisheries to which the landing obligation applies.
- k.* The North West Waters group considers it desirable to achieve consistency between all the recommendations for specific discard plans being drafted by regional groups in EU waters.
- l.* In accordance with Article 18(2) of Regulation (EU) No 1380/2013, the North West Waters group consulted the relevant Advisory Council, i.e. the Pelagic Advisory Council in the drawing up of this joint recommendation for a specific discard plan.

3. Definitions

- a.* For the purposes of this discard plan the definitions used shall be those specified in Article 4 of Regulation (EU) No 1380/2013.

4. Duration

- a.* In line with Article 15(6) Regulation (EU) No 1380/2013, this specific discard plan shall have a duration of no more than three years. It succeeds the discard plan provided for by Regulation (EU) No 1393/2004 which validity ceases on 31 December 2017 and is mainly intended to fill the legal loophole that is likely to be created when the current pelagic discard plan arrives at its end of validity without a multiannual plan coming into force.

5. Subject matter and scope

- a.* This specific discard plan is applicable to small and large pelagic fisheries and fisheries for industrial purposes in the North Western Waters, comprising ICES

sea areas [Union waters of] Vb, VI and VII, as per Article 15(1) a) of Regulation (EU) No 1380/2013.

- b. This discard plan will apply to all fishing vessels engaged in targeted pelagic fisheries in the North Western Waters without prejudice to rules applicable outside the aforementioned Union waters under Member State jurisdiction.
- c. Pelagic fisheries and species targeted are listed in the tables below.

Table 1. Fisheries in ICES Vb, VIa, VIb

Code	Pelagic fishing gear	Quota species targeted
OTB	Otter trawls– bottom	Mackerel, herring, horse mackerel, blue whiting, boarfish, argentine
OTM	Otter trawls midwater, other	Mackerel, herring, horse mackerel, blue whiting, boarfish, argentine
PTB	Pair trawls – bottom (other)	Mackerel
PTM	Pair trawls – midwater	Herring, mackerel
PS	Purse seines	Mackerel, blue whiting
LMH	Handline	Mackerel
LTL	Trolling	Mackerel

Table 2. Fisheries in ICES VII (excluding a, d and e)

Code	Pelagic fishing gear	Quota species targeted
LMH	Handline	Mackerel
LTL	Trolling and poles and lines	Albacore tuna
PTM	Pair trawls – midwater	Blue whiting, mackerel, horse mackerel, albacore tuna, boarfish, herring
OTM	Otter trawls – midwater	Blue whiting, mackerel, horse mackerel, boarfish, herring, albacore tuna
OTB	Otter trawls - bottom	Herring
PS	Purse seines	Mackerel, horse mackerel

Table 3. Fisheries in ICES VII d-e

Code	Pelagic fishing gear	Quota species targeted
OTB	Otter trawls (not specified)	Sprat
GND	Driftnets	Mackerel, herring
LMH	Handlines and polelines	Mackerel
OTM	Otter trawls – midwater (other)	Sprat, horse mackerel, mackerel, herring, boarfish
PTM	Pair trawls – midwater (other)	Horse mackerel
PS	Purse seines	Mackerel, horse mackerel

Table 4. Fisheries in ICES VIIa

Code	Pelagic fishing gear	Quota species targeted
OTM	Otter trawls – midwater	Herring
PTM	Pair trawls – midwater	Herring
LMH	Handlines	Mackerel
LMH	Gillnets	Herring

6. Timeline for implementation

- a. In application of Article 15(1) of Regulation (EU) No 1380/2013, this discard plan outlines that, in accordance with paragraph 7 below, the landings obligation for certain pelagic fisheries in the North Western Waters that was already in force from 1st January 2015 till 31 December 2017 shall be continued after 31 December 2017 in the same fisheries as specified in the 2015-2017 discard plan.
- b. Other pelagic species caught during fishing activities in Union waters shall be progressively subject to the landings obligation, as specified in Article 15(1) c) (ii) and (iv) of Regulation (EU) No 1380/2013 referring to the North Western Waters.
- c. Specific discard plans for those fisheries referred to in Article 15(1) c) ii [and] iv of Regulation (EU) No 1380/2013 were developed for the North Western Waters from 2016 on, but are progressively amended, as per the timeline for implementation of that Regulation.

7. Landings obligation

- a.* As per Article 15 Regulation (EU) No 1380/2013 all catches, under catch limits, in fisheries specified in Article 15(1) a) and listed in paragraph 5 of this discard plan made during fishing activities in Union waters or by union fishing vessels outside the Union waters in waters not subject to third countries sovereignty or jurisdiction also specified in paragraph 5 shall be brought and retained on board of the fishing vessels, recorded, landed and counted against the quotas where applicable, except when used as live bait.
- b.* In addition, by-catches of all other species subject to catch limits, including demersal species, caught during fishing activities by Union vessels in the fisheries defined in this discard plan shall also be included in the landings obligation from 1st January 2015, except when used as live bait.
- c.* The obligation to land all catches as specified in part (a) of this paragraph shall not apply to species for which there is a specific exemption, as detailed in paragraph 8 of this discard plan, as specified in Article 15(4) a) to c) of Regulation (EU) No 1380/2013.

8. Exemptions

- a.* Situations where the landing obligation shall not apply are specified in Article 15(4) of Regulation (EU) No 1380/2013. This refers to species in respect of which fishing is prohibited, as defined by a Council Regulation, species for which scientific evidence demonstrates high survival rates, and catches falling under the de minimis exemption, as outlined in Article 15(5) c) of Regulation (EU) No 1380/2013.

Prohibited Species

- b.* Regarding prohibited species, for pelagic fisheries these are currently specified in Article 12 of Council Regulation (EU) No 43/2014, and will continue to be specified in ongoing annual Council TAC and Quota Regulations.
- c.* Taking into account that Regulation (EU) N° 1380/2013 Recital (16) states that the CFP should pay full regard, where relevant, to animal health, animal welfare, food and feed safety and Article 3 point h) recalls that the CFP shall respect consistency with other Union policies, catches of aquatic animals for which flesh contaminants would exceed the maximum limits set by EU rules for human or animal consumption would also be covered by this exemption. According to food safety prescriptions as set out in Regulation (EC) No 853/2004 of the European Parliament and of the Council as well as in Commission Regulation

(EC) No 1881/2006 catches of contaminated fish shall not be kept on board a vessel. This fish has to be disposed directly into the sea.

- d. In line with the new point c) of Article 15(4) of Regulation (EU) No 1380/2013 which is in force since 1 June 2015, fish which shows damage caused by predators is not subject to the landing obligation too.

High survivability

- e. Regarding high survival, as detailed in Article 15(4) b) of Regulation (EU) No 1380/2013, species caught by certain gears and taking into account fishing practices and the ecosystem may be exempted from the landings obligation based on scientific evidence of high survival .
- f. Where there is a case for high survivability exemptions these should be recommended by Member States in this specific discard plan on a case-by-case basis.
- g. For the moment, member States Recommend that:
1. By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the landing obligation shall not apply to catches of mackerel and herring in the purse seine fisheries in ICES area VI, if all of the following conditions are met:
 - the catch is released before a certain percentage (set out in paragraphs 2 and 3 below) of the purse seine is closed ('the point of retrieval').
 - the purse seine gear is fitted with visible buoys clearly marking the limit for the point of retrieval,
 - the vessel and the purse seine gear are equipped with an electronic recording and documenting system when, where and extent to which the purse seine has been hauled for all fishing operations.

The point of retrieval shall be 80 % closure of the purse seine in fisheries for mackerel and it shall be 90 % closure of the purse seine in fisheries for herring.

If the surrounded school consists of a mixture of both species the point of retrieval shall be 80 % closure of the purse seine.

It shall be prohibited to release catches of mackerel and herring after the point of retrieval.

The surrounded school of fish shall be sampled before its release to estimate the species composition, the fish size composition and the quantity.

2) From 1 January 2019, by way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the landing obligation shall not apply to catches of mackerel and herring in the ring net fishery targeting non-quota pelagic species (for example, sardines) in ICES areas VIIe and VIIIf, up to 6nm from the coast, if all of the following conditions are met:

- the catch is released before a certain percentage (set out in paragraphs 2 and 3 below) of the ring net is closed ('the point of retrieval').
- the ring net gear is fitted with visible buoys clearly marking the limit for the point of retrieval.
- the vessel and the ring net gear are equipped with an electronic recording and documenting system when, where and extent to which the ring net has been hauled for all fishing operations.

The point of retrieval shall be 80 % closure of the ring net in fisheries for mackerel and it shall be 90 % closure of the ring net in fisheries for herring.

If the surrounded school consists of a mixture of both species the point of retrieval shall be 80 % closure of the ring net.

It shall be prohibited to release catches of mackerel and herring after the point of retrieval.

The surrounded school of fish shall be sampled before its release to estimate the species composition, the fish size composition and the quantity.

This request was already positively evaluated by STECF at the plenary meeting of 13-17 April 2015 in Brussels.

De minimis

- h.* Regarding de minimis, as detailed in Article 15(4) c) and further in 15(5) c) of Regulation (EU) No 1380/2013, there is provision for de minimis exemptions of up to 5% of total annual catches of all species subject to the landing obligation. The de minimis shall apply:
 - i.* Where scientific evidence indicates that increases in selectivity are very difficult to achieve; or

- ii. To avoid disproportionate costs of handling unwanted catches, for those fishing gears where unwanted catches per fishing gear do not represent more than a certain percentage, to be established in a plan, of total annual catch of that gear.
 - iii. For a transitional period of four years, the percentage of the total annual catches specified shall increase: by two percentage points in the first two years of application of the landing obligation, i.e. for the pelagic fisheries mentioned in point Article 15(1) a) of Regulation (EU) No 1380/2013 the year 2015 and 2016; and by one percentage point in the subsequent two years, i.e. for the pelagic fisheries mentioned in point Article 15(1) a) of Regulation (EU) No 1380/2013 the year 2017 and 2018.
- i. Although the catches discarded under *de minimis* will not be counted against quotas, any amount of catch discarded under application of *de minimis* shall be fully recorded and taken into account by ICES in preparing their annual scientific advice.
 - j. Where there is a case for *de minimis* exemptions this should be recommended by Member States in this specific discard plan on a case-by-case basis. These exemptions shall be applied at Member State level and it shall be for Member States to decide how to allocate this exemption.
 - k. The Member States recommend that a *de minimis* exemption should be continued in the following cases as foreseen in Regulation No 1393/2014 and after positive assessment by STECF:
 - i. for blue whiting (*Micromesistius poutassou*), up to a maximum of 6% in 2018 and 5% in 2019 and 2020, of the total annual catches in the industrial pelagic trawler fishery targeting that species in ICES sea areas Vb, VI and VII and processing that species on board to obtain surimi base.
 - ii. up to a maximum of 6% in 2018 and 5% in 2019 and 2020, of the total annual catches of albacore tuna (*Thunnus alalunga*) in the albacore tuna directed fisheries using midwater pair trawlers (PTM) in ICES sea area VII.
 - iii. Up to a maximum of 1% in 2018, 2019 and 2020, of the total annual catches of mackerel (*Scomber scombrus*), horse mackerel (*Trachurus ssp.*), herring (*Clupea harengis*) and whiting (*Merlangius Merlangus*) caught by midwater trawlers (OTM and PTM) up to 25 meters in length overall, and targeting mackerel, horse mackerel and herring in

ICES sea area VIId. The available evidence supporting this proposal is detailed in the annex.

9. Documentation of catches

- a.* In accordance with Article 15(5) d), specific discard plans can make provisions on documentation of catches. Such provisions should be consistent with the rules laid down in Regulation (EU) No 1224/2009.
- b.* Catches of species subject to catch limits shall be recorded in the appropriate fishing logbook with the correct scientific species name and/or with the appropriate codes in order to quantify the exact catches, in accordance with the Control Regulation. Documentation should be sufficiently rigorous to enable robust scientific assessments to be undertaken and the application of methods of control.
- c.* For any species not subject to the landing obligation pursuant to Articles 15(4) and 15(5) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council all estimated volumes of discards above 50 kg live-weight equivalent in volume shall be recorded in the electronic/fishing logbook with appropriate codes denoting the species discarded. The utilisation of the de minimis exemption shall be monitored by the competent authority.
- d.* The North west Waters Group may wish to take account of any advice issued by relevant experts groups relating to the documentation of catches in due course.

10. Fixing of Minimum Conservation Reference Sizes (MCRS)

- a.* In accordance with Article 15(5) e) of Regulation (EU) No 1380/2013, MCRS may be established in specific discard plans with the aim of ensuring the protection of juveniles of marine organisms.
- b.* If MCRS is already established in another Regulation, such as in the Technical Conservation Regulation, then Member States may submit regionally-agreed recommendations for the fixing of MCRS as a part of specific discard plans
- c.* The fixing of MCRS could take into account a variety of issues, such as: the setting of MCRS for market considerations; limiting the supply of particular size ranges to prevent oversupply; social or ethical reasons; biological and ecologic considerations.

- d.* Article 18 bis of Regulation (EG) No 850/98 as inserted by Regulation (EU) No 2015/812 amending Council Regulations (EC) No 850/98, (EC) No 2187/2005, (EC) No 1967/2006, (EC) No 1098/2007, No 254/2002, (EC) No 2347/2002 and (EC) No 1224/2009 and repealing (EC) No 1434/98 as regards the landing obligation (otherwise known as the “Omnibus Regulation”) empowers the Commission for the purpose of adopting delegated acts laying down a specific discard plan and for the duration thereof, to establish minimum conservation reference sizes for species subject to the landing obligation. Such sizes shall be established by means of a delegated act adopted in accordance with Article 48a of Regulation (EG) No 850/98 and Article 18 of Regulation (EU) No 1380/2013 with the aim of ensuring the protection of juveniles of marine organisms and may derogate, where appropriate, from the minimum conservation reference sizes established in Annexes XII and XIIa to Regulation (EG) No 850/98;

11. Revision and adaptation

- a.* Taking into account that the landings obligation constitutes a wholly new regime in the management of fisheries in Europe, and that specific discard plans are a new management tool, it has been agreed that this discard plan shall remain open to revision and adaptation throughout its duration.
- b.* It is considered to be the joint responsibility of the Commission and Member States to maintain oversight of the implementation of the provisions of this discard plan and to call into question any element which may be in need of revision and adaptation at any time.
- c.* In particular, this discard plan shall remain open to the later inclusion of exemptions under high survival and de minimis, and to the inclusion of specific provisions for MCRS to be specified at any time.

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Motive

Given the difficulty to increase the selectivity and the disproportionate cost of handling unwanted catches, a *de minimis* exemption for mackerel, horse mackerel, herring and whiting caught by pelagic trawlers up to 25 meters (overall length) using gear type OTM and PTM is requested. Because this fishery is already selective, few studies have been held on selectivity. Moreover, studies that have been conducted previously (Casey *et al*, 1992; Marlen *et al.*, 1994; Suuronen 1991) show that it is difficult to improve selectivity. A total landing obligation would also have no negligible socio-economic impacts on this fishery.

The evidence base for this exemption is mainly based on the French fleet but it should apply equally to vessels from other Member States that fish for the same species in the same areas in the same way.

Characteristics of the fishery and its activity

The artisanal pelagic fishery asking for an exemption of *de minimis* is formed by **tens of under-25m refrigerated seawater vessels**. The gears used are **pelagic trawls (Midwater otter trawl - OTM - and Midwater pair trawl - PTM -)**. They fish all year long in the south of the Northern Sea (ICES Division IVc, IVb) and move down through the eastern Channel (ICES Division VIId). According to French Sea Observer Program (ObsMer), 106 vessels were having this activity in 2015 with home harbour from Cherbourg to Boulogne-Sur-Mer. French vessels are permitted to enter the UK 12-mile zone, because of historic fishing rights, but must stay outside six miles. Fishing trips last up to one day (sometimes only a few hours) and fishing mostly takes place during the day. No processing is observed aboard and the catch is stored on board in refrigerated holds in boxes or bins. The target species are mainly mackerel, herring and sardine.

During a same fishing trip, OTM can be used in complement of OTB (Bottom otter trawl). Those fishing trip are then considered as mixed trip. **For the purpose of this exemption, only fishing operation using OTM or PTM gears would be concerned by this de minimis.**

Composition of catches, landings and discards

In 2015, 39 fishing trips and 106 fishing operations on pelagic trawlers have been monitored by the French Sea Observation Program (ObsMer). 60.9% of the fishing trips and 44.3% of the fishing operations were considered as mixed trips/operation, because OTM was used in complement of OTB (for demersal species) during the same trip.

The following results on discards are the only ones who can be assessed from ObsMer (Cornou *et al*, 2016) for artisanal small pelagic fisheries in ICES areas VIId and IVbc. They are based on the 106 fishing operations using pelagic trawls and reported to target mackerel and herring in VIId and IVbc. Distinction on discard information between VIId and IVbc is not possible because the activity of this fishery (as well as the fish stocks they target) overlaps the two areas. It is important to note that

results presented below are including mixed fishing trip, thus those data should be used only for information purposes.

In 2015, the estimate discard rate for the fishery is 10%, however for example when using OTM and targeting herring, and according to logbooks data, the discard rate is almost at 0%.

According to 2015 ObsMer data (Cornou *et al.* 2016), herring, mackerel and sardine represent 86% of the total catch (Figure 1). They are almost all caught above the minimum conservation reference size (except in IVc where discard of undersized mackerel are indicated, probably due to different MCRS between VIId and IV). The main TAC species discarded are horse mackerel and whiting (Figure 2). The presence of whiting may be explained by the fishing operations in shallow water (Bay of Seine). Whiting only represent 0.7% of discard on the total catch (84% of the whiting discarded is below MCRS). The important intervals of confidence for whiting and mackerel also illustrate the variability of discards of these species from a fishing operation to another.

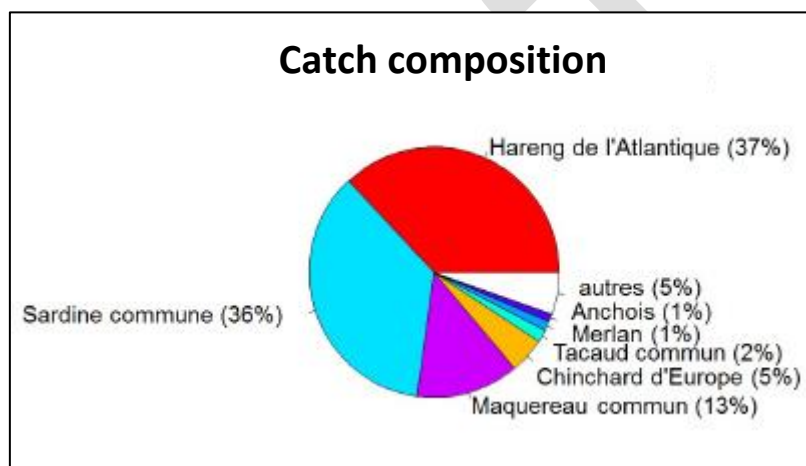


Figure 1. Catch composition of species in weight for pelagic and bottom trawlers under 25m length in the North Sea and Eastern channel (2015, ObsMer data)

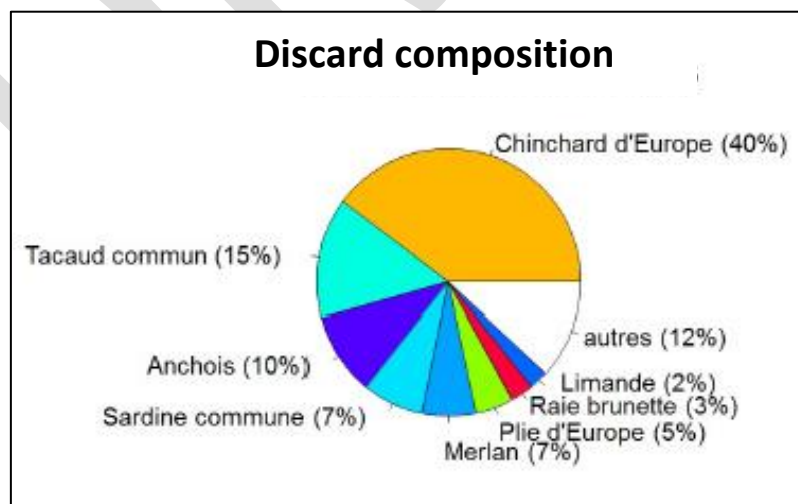


Figure 2. Discard composition of species in weight for pelagic and bottom trawlers under 25m length in the North Sea and Eastern channel (2015, ObsMer data)

The four species concerned by the request have minimum conservation reference size:

- Herring : 20cm
- Mackerel : 30cm in North Sea, 20cm elsewhere
- Horse mackerel: 15cm
- Whiting: 27cm

According to ICES advices in 2016, herring (Subarea 4 and divisions 3.a and 7.d stock) and whiting (Subarea 4 and divisions 3.a and 7.d) stocks are in safe biological limits as defined in the CFP.

Specifying de minimis volume

Only for information purpose, here after is presented an estimate of the maximum discard volume with this exemption.

According to ObsMer data 2015, overall catch of the species concerned (herring, mackerel, horse mackerel and whiting) for French artisanal pelagic trawlers are 8662.0 tonnes. Thus, in 2015 a de minimis of 1% would have allowed a maximum volume of discard by French vessels using OTM and PTM of **86.62 tonnes** (see annex 1 for more detail). This discard volume estimate is including OTB fishing operation (mixed fishing trip), then this volume is probably over estimated.

A 1% de minimis would offer the flexibility needed by artisanal pelagic trawlers to face the variability of catch composition depending on fishing operation.

Difficulty to increase the selectivity

French artisanal small pelagic fisheries have particularly low rates of discards due to their selective nature, including the fact that fishermen already adopt voluntarily spatio-temporal measures to avoid unwanted catches. Nevertheless, they may be more important and diverse than for large scale pelagic fisheries, notably because of the fishing areas close to the coast and / or at small depth, explaining for example the presence of demersal species in some catches and discards.

A recent scientific report from IFREMER (Institut Français de Recherche pour l'Exploitation de la Mer) (Vogel *et al.*, 2016) make a summary of all selectivity works conducted in France for all gears and all areas. International works were also included in the reflexion for this report. This report indicates that pelagic trawl selectivity is defined on the same parameters as the bottom trawls. Previous studies on pelagic trawls selectivity have been focusing on mesh size geometry, trawler conception and selective grids. Main species studied are mackerel and herring. Results of the different studies are variable but none of the study seems to show convincing results. For example, Casey (Casey *et al.* 1992) compared the selectivity of square and diamond mesh and suggests that this device (square mesh) was not appropriate to improve mackerel selectivity in this fishery. Suuronen (Suuronen *et Millar*, 1992) also worked on net mesh (square vs diamond) but on herring selectivity in the Baltic sea. Results show better selectivity improvement but depending on the volume of the total catch (net obstruction). Tests on selective grid for herring (Suuronen, 1991; Suuronen *et al.*, 1996) and mackerel (van Marlen *et al.*, 1994) have not yet shown any significant result.

As Pelagic AC recommendations emphasized at the beginning of the landing obligation implementation (PRAC, 2014), the rather clean nature of small pelagic fisheries may explain why there has been only limited development and research effort directed to increasing selectivity in pelagic trawl fisheries within the ICES community.

Even if numerous selectivity programs have been developing in the frame of the landing obligation (DISCARDLESS, SIMBAD, REDRESSE, EODE...), none of them is focussing on artisanal pelagic trawls. Moreover, no study is planned on pelagic trawler for now, making difficult to improve even more selectivity for this fishery in a short term period.

Hereafter are the reasons of the discards for the main species in the artisanal small pelagic fisheries, in relation with the capacity to improve the selectivity.

Discards of whiting are mainly due to its minimal landing size (27 cm), which is taller than the minimal size of the target species (mackerel, 20 cm in VIId), and difficulties to avoid it with the mesh size used (< 70 mm). Although if mesh size is increased in order to avoid whiting unwanted catches, it is more likely that there will be commercial catches losses (especially herring, as for now very little herring catches are discarded, herring catches being all above MCRS).

Discards of mackerel are mainly due to quota limitation, as well as the discards of herring. Since at least 2013, at French level, both quota of mackerel and herring are consumed almost 100% at the end of the year. Discards of undersized mackerel especially occur in the ICES subarea IVc because of the taller minimal size in place (30 cm) compared to the VIId (20cm). The harmonization of the minimum conservation reference size (20 cm) between the two areas would help to reduce unwanted catch of undersized mackerel for this fishery. Although discard rate of mackerel is really low (0,1% of total catch according to 2015 ObsMer data for pelagic trawlers), the volume of discards can be occasionally higher in some fishing trips because of fishing randomness.

The low market for horse mackerel explains the majority of the discards observed; it seems difficult to develop a market for this species in France on the short term, in view of the aleatory nature of the catches. It also seems really difficult to increase the selectivity, as the discards already represent a really small percentage of the catches.

Finally, some discards are also due to the quality of the fishes, which can be damaged by the scissors effect and others mechanical effects of the nets. Few solutions exist for these kinds of discards, especially in terms of selectivity.

Disproportionate costs of handling unwanted catches

Few studies have previously studied what will be the economic impact of a landing obligation, especially regarding what the CFP called the "disproportionate costs" (Buisman *et al.* 2013, Condie *et al.* 2013a and b, Poseidon, 2013; Macher *et al.*, 2015). It is important to notice that several scientific projects (CELSELEC, REDRESSE) are currently ongoing for mixed fishery, which will try to assess the economic impacts of the landing obligation at vessel and fleet levels.

It was also one of the aims of the EODE French project which ended beginning of 2016. This project has been running for 2 years (2014-2015; Balazuc *et al.*, 2016). This study was conducted in the North Sea and the Eastern Channel with the objectives to look at the adaptation of the fishing strategy of bottom otter trawlers (<100mm) in front of the landing obligation, and the impact of the LO onboard and inland. During the trials (2 weeks per month between October 2014 and September 2015), the vessels were in the situation of full or half-full landing obligation. Since this project was conducted on bottom otter trawlers, results are only indicated for information purposes.

The EODE project also aimed to evaluate economic impact of a full landing obligation. Link to the limited hold capacity, results show that the full application of the landing obligation would conduct to fill the hold more quickly and with a significant part of undersized fish that cannot be avoid for the moment. Consequences are the return of the vessel at home harbours more quickly to land their catches with catches not valuable or at a minimum price. A fishing trip would therefore be less economically profitable and thus the salary of the crew will be decreased too.

This study also provided results on sorting time. It showed that the sorting and stowage time will be largely increased and this would imply less resting time for the crew. Moreover, the landing obligation will have impact on onboard materiel constraint. Vessels have maximal loading charge (according to their navigation permit) in order to assure security and vessel stability. On the vessels studied during the trial, the loading charge was not the main problem (even if in some cases it was, and would have conducted to stop the fishing trip) but the volume of catches. Indeed, hold capacity is limited, especially on vessels under 18 metres.

No project has previously studied this aspect for pelagic fisheries, and no study are planned to be set up in a short time. Moreover, the economic problem of landing obligation in OTM artisanal fishery is really difficult to approach because its activity is generally mixed with demersal fishing operations during the same fishing trip.

General observations can already emphasize that the landing obligation will result in many additional costs for the fishermen (as underlined by the Commission staff working paper, 2011¹). These costs will prove most certainly disproportionate compared to the valorisation which could be made of the unwanted catches to be landed.

1. Unwanted catches is often due to the absence or the low local market because of the inherent low market value of some species (horse mackerel, herring) or the quality of the fishes (scissors effect of the nets, etc.)
2. Catches are sorted by men and not machines, thus increasing the labour cost onboard if unwanted catches with low market value have to be sorted and stored
3. Vessels have a legally limited capacity of storage, which may be affected by the need to store unwanted catches at the expense of targeted and commercial catches
4. Storing these catches (storage box and icing in particular) will increase the cost of fishing. Moreover, most of the artisanal vessels (~25 years old in average) will certainly be technically unfitted to handle all the unwanted catches
5. Companies which can enhance the economic value of unwanted catches are still rare in France, resulting in additional costs related to the logistics of collecting these unwanted catches. Their

¹ http://ec.europa.eu/fisheries/reform/sec_2011_891_en.pdf

onshore processing will be even more problematic, because landings of unwanted catches will not be regular in terms of quantity and quality

6. Even after 3 years of landing obligation, no development of new market for unwanted catches seems to have been developed, and thus will not be possible before January 1st, 2018

The H2020 Discardless and MINOUW project will give precious information on the way the landing obligation can be dealt by the fishermen.

Conclusion

According to available French data (logbook), very few discards have been reported for the exemption previously in force for OTM gear (article 3 of delegated act 1395/2014 and article 3 (c) of delegated act 1393/2014). Nonetheless, this could be explained by the fact that, because of the application of the landing obligation, vessels prefer to use other gear not yet under landing obligation, however it is likely to be temporary as in the next years all gears will be under landing obligation. Another fact has also been reported, which was also questioned by STECF at the time (STECF plenary report 14-02), which could explain the non-use of this exemption before: PTM gear was not included in this exemption at the time. After several exchange with the industry it seems appropriate to maintain this exemption, with a lower percentage (1%) and including PTM gears (for which some discards are reported).

Because of all the work done on the field to raise awareness about the implementation of the LO and the importance to report all discard, it is likely that discard data will be more available in the next years.

Finally, because of the clean and already selective nature of the fishery, it seems appropriate to allow an exemption in order to give them more flexibility when needed (occasional fishing operation with more discards).

- Discard volume in artisanal pelagic fishery (using OTM and PTM) are low but could be occasionally higher because of fishing hazards.
- Previous programs working on selectivity in North Sea and the Channel didn't show any convincing result on selectivity improvement that doesn't imply too many commercial losses for the fishermen, but still, selectivity program are running (REJEMCELEC, DISCARDLESS...) with the aim to test new and existing gears (which could inspire new test on pelagic gears);
- The H2020 Discardless and MINOUW projects will give precious information on the way the landing obligation can be dealt by the fishermen;
- De minimis exemptions can provide the flexibility to the fishermen to adapt their behaviour to such new regulation frame (even if it's been 3 years that the landing obligation came into force, it is still a big change for fisherman and they need time to adapt).

The table established by STECF during the EWG 16-06 has been completed in Annex 1. This table summarizes information on the French fishery that would potentially be concerned by this exemption.

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Annex 1. Template for the provision of information that defines the fisheries to which de minimis exemptions should apply (template 4.1a from the EWG-16-06 report to the STECF)

(This document has been modified for the purpose of this de minimis request)

Country	Exemption applied for (species, area, gear type)	Species as bycatch or target	Number of vessels subject to LO	Estimated landings - all species (in tonnes)	Estimated discards - all species (in tonnes)	Estimated catch - all species (in tonnes)	Discard rate	Estimated catch - mackerel, herring, horse mackerel, whiting (in tonnes)	Estimated de minimis volumes (in tonnes) - 1% exemption
FR*(applicable UE)	<p><u>species</u> : small pelagic species (mackerel, herring, horse-mackerel, whiting)</p> <p><u>area</u> : VIId, IVbc</p> <p><u>gear types</u> : artisanal pelagic trawls (OTM/PTM)</p>	by-catch	106	13850	1602	15452	10.4%	8662	86.62

* Source : ObsMer data 2015 (Cornou *et al*, 2016)